



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
BRUNSWICK WASTE MANAGEMENT FACILITY, LLC
FOR THE
BRUNSWICK LANDFILL
Solid Waste Permit No. 583**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and Brunswick Waste Management Facility, LLC, regarding the Brunswick Landfill, for the purpose of resolving certain violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "Brunswick Waste" means Brunswick Waste Management Facility, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Brunswick Waste is a "person" within the meaning of Va. Code § 10.1-1400 and Va. Code § 62.1-44.3.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" or "Landfill" means the Brunswick Waste Landfill located at 107 Mallard Crossing Road in Lawrenceville, Virginia, which is owned and operated by Brunswick Waste.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
8. "Permit" means Solid Waste Permit No. 583, which was issued under the Virginia Waste Management Act and the Waste Regulations to Brunswick Waste on April 17, 1995 and which was amended on February 23, 2010.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 *et seq.*
11. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.
15. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

SECTION C: Findings of Fact and Conclusions of Law

1. Brunswick Waste owns and operates a Municipal Solid Waste Landfill with scrap and waste recycling at the Facility in Lawrenceville, Virginia. Brunswick Waste's operations at the Landfill are subject to the Virginia Waste Management Act, the Regulations and the Permit, which allows landfill operations in strict compliance with its terms.
2. On August 3, 2009, Brunswick Waste became aware of a discharge of an unknown volume of water from a seep on the toe of slope on the southeast corner of Cell 4 slope

into a Sedimentation Basin. The water level in the Sedimentation Basin was well below the discharge outfall structure elevation. Drainage from the outfall structure flows to Stephen's Branch, which is a state water.

3. Brunswick Waste provided the DEQ PRO with a verbal notification on August 4, 2009 of the discharge which occurred on August 3, 2009, within twenty-four (24) hours of when the discharge was observed.
4. On August 4, 2009, during sample collection, Brunswick Waste staff discovered that the Sedimentation Basin outfall structure was discharging to Stephen's Branch. Brunswick Waste initially attempted to plug the outfall riser. When this failed to stop the leak, Brunswick Waste constructed an earthen dam around the outfall riser to eliminate the discharge. After containing the discharge, Brunswick Waste replaced the outfall structure completely. This new outfall structure has eliminated the potential for repeat occurrences of the unauthorized discharge.
5. On August 10, 2009, DEQ PRO received written notice from Brunswick Waste which stated that a discharge was observed by Facility staff around mid-day on August 4th. In a December 15, 2009 response letter to DEQ, Brunswick Waste clarified that the August 4th date was incorrect and that it was actually August 3rd the discharge was observed. The fifth (5th) calendar day after the release was observed occurred on Saturday, August 8, 2009 and August 10, 2009 was the first business day thereafter.
6. The written notification from Brunswick Waste stated that Facility staff observed water from Sedimentation Basin E discharging to State waters via the basin outfall. The written notification stated that "it was discovered that the pond outfall riser was leaking, therefore allowing water to discharge from the pond even though the pond level was well below the outfall structure."
7. Brunswick Waste representative provided the DEQ with laboratory data collected on August 4, 2009, from the seep, Sedimentation Basin E, and the Sedimentation Basin E discharge (Outfall 006). The seep samples contained quantified detections of barium, cobalt, nickel, zinc, 2-butanone, acetone, benzene, ethylbenzene, toluene, total xylenes, naphthalene, and (2,4-dichlorophenoxy) acetic acid. Sedimentation Basin E samples contained quantified detections of barium, zinc, 2-butanone, and acetone. The Sedimentation Basin E discharge (Outfall 006) samples contained quantified detections of barium, nickel, zinc, 2-butanone, and acetone.
8. Additional samples collected from Sedimentation Basin E on September 9, 2009 indicated quantified detections of acetone and samples collected September 14, 2009 contained quantified detections of barium.
9. On September 29, 2009, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act, the Regulation and the Permit. There were no observed violations or adverse environmental impacts occurring at the time of the September 29, 2010 inspection.

10. Stephens Branch is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.
11. The Department has issued no permits or certificates to Brunswick Waste authorizing the discharge of leachate to State waters.
12. 9 VAC 20-80-250.C.12 of the VSWMR states that "sanitary landfills shall not cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act (33 USC § 1251 et seq.), including, but not limited to, the Virginia Pollutant Discharge Elimination System (VPDES) requirements and Virginia Water Quality Standards (9 VAC 25-260).
13. 9 VAC 20-80-290.D.4 of the VSWMR states that collected leachate shall be "treated on-site and discharged into surface water when authorized under VPDES permit issued by the State Water Control Board or otherwise approved by that agency."
14. On November 24, 2009, based on the information provided by Brunswick Waste, the Department issued Notice of Violation No. 2009-11-PRO-604 to Brunswick Waste for the violations described above.
15. On December 15, 2009, Brunswick Waste submitted a written response to the NOV stating that the discharge was observed on August 3rd not August 4th as initially reported.
16. On January 5, 2010, Department staff met with representatives of Brunswick Waste to discuss the violations, including Brunswick Waste's written response.
17. Based on the January 5, 2010, meeting, and the documentation submitted by Brunswick Waste, the Board concludes that Brunswick Waste has violated 9 VAC 20-80-250.C.12 and 9 VAC 20-80-290.D.4 as described in Section C above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Brunswick Waste, and Brunswick Waste agrees to pay a civil charge of \$6,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Brunswick Waste shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Brunswick Waste for good cause shown by Brunswick Waste, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Brunswick Waste admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Brunswick Waste consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Brunswick Waste declares it has received fair and due process under the Administrative Process Act, State Water Control Law, and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Brunswick Waste to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Brunswick Waste shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Brunswick Waste shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Brunswick Waste shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Brunswick Waste intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Brunswick Waste.
11. This Order shall continue in effect until:
 - a. Brunswick Waste petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or the Board terminates the Order in his or its sole discretion upon 30 days' written notice to Brunswick Waste.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Brunswick Waste from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Brunswick Waste and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Brunswick Waste certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Brunswick Waste to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Brunswick Waste.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Brunswick Waste voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29th day of OCTOBER, 2010.



Michael P. Murphy, Regional Director
Department of Environmental Quality

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Brunswick Waste Management Facility, LLC voluntarily agrees to the issuance of this Order.

Date: 9-23-10 By: [Signature] General Manager
(Person) (Title)
Brunswick Waste Management Facility, LLC

Commonwealth of Virginia

City/County of Fairfax

The foregoing document was signed and acknowledged before me this 23 day of
Sept, 2010, by Timothy R. Loveland who is
General MGR. of Brunswick Waste Management Facility, LLC, on behalf
of the limited liability company.

[Signature]
Notary Public
#316262
Registration No.

My commission expires: 10/31/10

Notary seal: